

Message Text

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ACTION DLOS-09

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 2990

INFO AMEMBASSY NAIROBI

C O N F I D E N T I A L SECTION 01 OF 02 USUN NEW YORK 03308

FROM LOSDEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS CONFERENCE DAILY SUMMARY - AUGUST 23

SUMMARY: THE CONFERENCE PLENARY WAS DEVOTED TO A TRIBUTE
TO PRESIDENT KENYATTA OF KENYA. NG-2 AND A CONFIDENTIAL
GROUP OF DISPUTE SETTLEMENT EXPERTS MET. END SUMMARY.

1. THE FIRST MEETING OF THE "SECRET" GROUP OF LEGAL EX-
PERTS ON SETTLEMENT OF SEABED DISPUTES WAS CHAIRED BY
ZULETA. THE PARTICIPANTS ARE: CASTANEDA (MEXICO)
JAENECKE (FRG), MRS. MUTUKWA (ZAMBIA), NASINOVSKY (USSR),
SOHN (US), JAGOTA, (INDIA) AND AL-WITRI (IRAQ). (THE LATTER
TWO WERE ABSENT BUT WILL BE BRIEFED BY ZULETA LATER).
IT WAS QUICKLY AGREED THAT THE SECRETARIAT DRAFT WAS
TACTICALLY DANGEROUS AS MOST DELEGATIONS WILL OBJECT TO
A COMPLETE ARRANGEMENT OF ALL THE RELATED ARTICLES. HOW-
EVER, IT WAS USEFUL AS A LIST OF ISSUES WHICH NEED TO BE
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DISCUSSED, AND THE AMENDMENTS SUGGESTED IN IT RAISED THE
MAIN PROBLEMS ON WHICH AGREEMENTS NEED TO BE
REACHED. THE DISCUSSION WAS DOMINATED BY NASINOVSKY
(USSR) WHO INSISTED ON A PRELIMINARY REVIEW OF ALL PRO-
POSED CHANGES, AND OPPOSED PRACTICALLY ALL OF THEM. THE
FRG AND US SUGGESTED COMPROMISE SOLUTIONS TO ISSUES RAISED
BY HIM AND RECEIVED SUPPORT FOR SEVERAL OF THEM FROM

MEXICO AND ZAMBIA.

IT SOON BECAME CLEAR THAT ONLY A FEW CHANGES WILL BE POSSIBLE; NEVERTHELESS, THERE WAS SYMPATHY TO SEVERAL OF THE CONCERNS VOICED BY REPRESENTATIVES OF THE FRG AND U.S. THE GROUP WILL MEET AGAIN ON AUGUST 29.

2. NG-2 (FINANCIAL ARRANGEMENTS) MET AUGUST 23, AND ALTHOUGH SCHEDULED TO CONSIDER THE ANNUAL FIXED CHARGE TO MINE, REVIEWED FINANCIAL ARRANGEMENTS AS RELATED TO THE COMMON HERITAGE CONCEPT. SUCH BROAD DISCUSSION, IF IT DOES NOT CONTINUE TOO MUCH LONGER, WILL HAVE BEEN USEFUL IN BRINGING OUT SOME OF THE DIFFERENT NORTH/SOUTH ASSUMPTIONS. THE MOST IMPORTANT OF THESE IS THAT THE DEVELOPING COUNTRIES ARE "ASSUMING" THAT THERE WILL BE PROFITABLE SEABED MINING, WHEREAS THE DEVELOPED COUNTRIES ARE "HOPING" THAT THERE WILL BE PROFITABLE SEABED MINING. IT WAS ALSO CLEAR THAT THE DEVELOPING COUNTRIES (ESPECIALLY INDIA AND PAKISTAN) WANT THE AUTHORITY TO BENEFIT FINANCIALLY WHETHER OR NOT MINERS MAKE PROFITS, WHEREAS THE DEVELOPED COUNTRIES BELIEVE THAT THE AUTHORITY SHOULD ONLY BENEFIT IF SEABED MINING IS ECONOMICALLY VIABLE. THE RESULT IS A COMPLETELY DIFFERENT EMPHASIS ON FRONT-END CHARGES.

3. SEVERAL G-77 DELEGATES HIGHLIGHTED THE IMPORTANCE OF CONFIDENTIAL

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KNOWING THE RATE OF RETURN THE TREATY COULD "ALLOW". AMBASSADOR KOH REPLIED THAT HE WOULD DISTRIBUTE SOON A PAPER ON RECENT RATES OF RETURN OF INDUSTRIALIZED COUNTRY MINING COMPANIES. THE US CAUTIONED CARE IN EXAMINING SUCH DATA BECAUSE OF THE CRITICAL DIFFERENCE IN THE RATES OF RETURN EX POST AND EX ANTE. THE US ALSO EMPHASIZED THAT CASH FLOW IS AS IMPORTANT A CONCEPT AS RATE OF RETURN. IT IS POSSIBLE, FOR EXAMPLE, TO HAVE AN ADEQUATE RATE OF RETURN AND STILL GO BANKRUPT BECAUSE OF INADEQUATE CASH FLOW. THE US FURTHER STATED THAT SINCE IT WAS IMPOSSIBLE TO PREDICT WHAT RATES OF RETURN WOULD BE IN THIS INDUSTRY, IT WAS NECESSARY TO EMPHASIZE PROFIT SHARING RATHER THAN END PAYMENTS.

4. THE DELEGATES FROM INDIA (JAGOTA) AND PAPUA NEW GUINEA (DABB) INDICATED THAT SPECIAL FINANCIAL INCENTIVES MIGHT BE GIVEN TO FIRST-GENERATION MINERS. THE US AGREED THAT IT WAS IMPORTANT TO EXPLORE THIS POSSIBILITY.

5. AT THE END OF A RELATIVELY ARDUOUS SESSION, THE US INDICATED THAT IT MIGHT BE POSSIBLE TO HAVE A MINIMAL ANNUAL FIXED FEE PROVIDED THAT IT WAS CREDITABLE AGAINST

PRODUCTION CHARGES, A SYSTEM SIMILAR TO THAT PROPOSED IN THE ICNT. THIS MAY PROVIDE KOH WITH THE COMPROMISE WHICH HE FEELS HE NEEDS IN ORDER TO APPEASE JAGOTA (WHOSE \$60 MILLION BONUS PAYMENT PROPOSAL IS STILL ON THE TABLE) AND THE MANY G-77 DELEGATES WHO SEEM TO SUPPORT JAGOTA THIS SESSION.

6. BEGIN UNCLASSIFIED

AT THE PLENARY TRIBUTE TO PRESIDENT KENYATTA, AMBASSADOR ELLIOT RICHARDSON DELIVERED THE FOLLOWING EULOGY.

"THE AMERICAN PEOPLE MOURN WITH THE KENYAN PEOPLE THE PASSING OF THEIR ILLUSTRIOUS PRESIDENT JOMO KENYATTA. WE PROUDLY JOIN THE WORLD COMMUNITY IN HONORING HIS MEMORY AND HIS WORK. WE HONOR HIM TODAY BOTH AS A LEADER OF A CONFIDENTIAL

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INFO AMEMBASSY NAIROBI

C O N F I D E N T I A L SECTION 02 OF 02 USUN NEW YORK 03308

FROM LOSDEL

SUCCESSFUL STRUGGLE FOR FREEDOM, AND AS A NATION BUILDER.
A GIANT AMONG STATESMEN OF AFRICA, AND INDEED FAR BEYOND
AFRICA, PRESIDENT KENYATTA OVER THE NEARLY 15 YEARS HE

LED HIS NATION COMBINED IN ALL HIS PUBLIC ACTS WISDOM WITH MODERATION. HIS COUNSEL AND EXAMPLE WERE AN INSPIRATION TO HIS FELLOW AFRICANS. HIS RALLYING CRY, "LET'S PULL TOGETHER," INSPIRED RECONCILIATION IN HIS OWN COUNTRY AND FAR BEYOND KENYA'S BORDERS.

WE SALUTE HIM ALSO FOR THE EXTRAORDINARY SUCCESS WITH WHICH HE LED HIS NATION TO STABILITY AND PROSPERITY WHILE NEVER LOSING SIGHT OF THE ASPIRATIONS OF HIS PEOPLE FOR FREEDOM AND DEMOCRACY. WITH REGARD TO THE LAW OF THE SEA, HE WAS DEEPLY COMMITTED TO THE OBJECTIVES OF THIS CONFERENCE. THE EXTENT OF THAT COMMITMENT IS REFLECTED IN THE WORK OF THE OUTSTANDING DELEGATION WHICH REPRESENTS KENYA HERE TODAY.

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A TOWERING FIGURE IN THE AFRICAN AND WORLD COMMUNITY HAS PASSED INTO HISTORY. AS WE HONOR THE MEMORY OF THIS INSPIRED AND SPIRITED STATESMAN TODAY WE HOPE THAT HIS EXAMPLE WILL REMAIN A SHINING LIGHT IN OUR TROUBLED WORLD." END UNCLASSIFIED. YOUNG

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